

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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EMANUEL GARCIA, *on behalf of himself, FLSA*  
*Collective Plaintiffs and the Class*

Plaintiffs,

-against-

CHIPOTLE MEXICAN GRILL, INC.,

Defendant.  
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Case No. 16-CV-0601

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**DECLARATION OF ARLENE BAEZ**

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I, Arlene Baez say and declare, as follows:

1. I have personal knowledge of the facts described below and would competently testify to those facts.

2. I am currently employed by Chipotle Mexican Grill, Inc. ("Chipotle") as an Apprentice at Chipotle's Hunter College location. I started working for Chipotle as a Crew Member in November 2011 at Chipotle's Upper East Side location. Thereafter, in about 2013 I became a Kitchen Manager first at Chipotle's Upper East Side location. Thereafter, in about 2014 I became a Service Manager at Chipotle's Upper East Side location. Thereafter, in July 2016 I was promoted and became an Apprentice at Chipotle's Hunter College location. As a Crew Member, Kitchen Manager, and Service Manager I was an hourly employee and was paid an hourly wage for all time that I worked for Chipotle. Now, as an Apprentice I am a salary employee.

**Chipotle's Timekeeping Policy**

3. Chipotle has a written Timekeeping Policy that mandates that all work time be accurately recorded and that employees be paid for all time worked.

4. Chipotle's Timekeeping Policy appears in the Crew Handbook. As a new Crew Member/hire, I was given a copy of the Crew Handbook. I acknowledged that I received and understood the information in the handbook. Chipotle's Timekeeping Policy is also set forth in the Restaurant Management Handbook, which I received upon my promotion to a Service Manager.

5. The requirement in Chipotle's Timekeeping Policy that I record all time worked includes time spent engaged in every kind of work, such as work performed before or after a scheduled shift, time spent at formal and informal meetings, and all time spent training. When I was a Crew Member, Kitchen Manager, Service Manager, and an Apprentice I was always required to record this time. I have always been paid for this time as well as for all other time I have spent working for Chipotle as Crew Member, Kitchen Manager, Service Manager, and an Apprentice.

6. Chipotle's Timekeeping Policy required me to record the start and end times of my off-duty meal periods in addition to the time worked. Chipotle also paid me for a thirty-minute break period for every shift, but I was still supposed to clock in and clock out when I took a break.

7. During my employment with Chipotle, I have always been paid for all the time I worked. I was trained when I was a Crew Member, Kitchen Manager, and Service Manager that if my time recorded was inaccurate in any way or if my pay did not include payment for all the time I had worked during the pay period it covered, I should immediately notify the Apprentice, General Manager, or Restaurateur responsible for my restaurant so the error was corrected.

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Additionally, Chipotle provides confidential, toll-free hotlines that I can contact with any concerns, mistakes or problems. The information about the hotlines is displayed on a poster in the employee area of my restaurant. I understand that if I felt I could not discuss my concerns with my Apprentice, General Manager, or Restaurateur, when I was a Crew Member, Kitchen Manager, or Service Manager, I could call one of the hotlines, and my call would be kept confidential. I have not seen any employee be disciplined, threatened, treated unfairly in any way or have his or her hours reduced for raising an issue with a manager about being paid for all time worked.

**Chipotle's Timekeeping System**

8. I use the "point-of-sale" or "POS" system in the restaurant to record my hours that I work for Chipotle. I clock in and clock out of the system by swiping a card provided by Chipotle. When I was a Crew Member, Kitchen Manager, and Service Manager, it was my responsibility to record the time that I worked accurately so I can be fully and properly paid.

9. When I was a Crew Member, Kitchen Manager, and Service Manager, I occasionally forgot to clock in before I began work for the day. If I forgot to clock in or could not clock in for any reason, I notified one of the managers of the time I began working. The manager would edit my time entry on the POS system with my consent so that I was paid for any time I worked before I remembered to clock in for the day. It was my responsibility to notify my manager if I forgot to clock in, and I reviewed the correction to the time record to make sure that I was paid for all of my time.

10. When I was a Crew Member, Kitchen Manager, and Service Manager, when I was done working for the day, I clocked out in the same way that I clocked in, using my card. On some occasions, I occasionally forgot to clock out before leaving the restaurant for the day. If I forgot to clock out, it was my responsibility to notify one of the managers what time I stopped

working. The manager could then edit my time entry on the POS system so that I would not be paid for time I did not work. It was my responsibility to notify my manager if I forgot to clock out and to review the correction that the manager made to be sure that I was totally and properly paid for all of my time.

11. When I was a Crew Member, Kitchen Manager, and Service Manager, my manager asked that I review and agree to any corrections to my time. I was never asked to agree to an untruthful adjustment or correction, and I have never agreed to an improper adjustment. As a manager, I sometimes need to make corrections to the time records of Crew Members who have forgotten to clock in or clock out. I have the employees review each correction to make sure that they will be properly paid for all hours worked. When I was a Crew Member, Kitchen Manager, and Service Manager I obtained a receipt from my manager for any time edits so that I could ensure I was paid properly. When I clock out for the day, the POS system automatically prints out a receipt that contains a record of my recorded time. When I was a Crew Member, Kitchen Manager, and Service Manager I was able to review the receipt to be sure all of my time was recorded and I could use that receipt to confirm that Chipotle paid me for the hours that I worked. The receipt let me know of any correction or change to my time made by a manager, so I was able to confirm that the adjustment was accurate. I keep track of the time I work. My paystub has always shown payment for all time I have worked during the pay period.

12. When I was a Crew Member, Kitchen Manager, and Service Manager, there were multiple methods for me to ensure that my time was properly recorded and that I was properly compensated for all time worked. These methods to correct any errors in time records before my pay was calculated and to correct any mistakes I might have identified included: (1) going to a

second manager; (2) going to team a lead/restaurateur; (3) calling 800 number; (4) relying upon payroll; etc.

**Working at Chipotle**

13. When I was a Crew Member, Kitchen Manager, and Service Manager, the hours I worked were scheduled by the managers at my restaurant each week. Typically the hours I worked were the hours I was scheduled to work. Sometimes, if the restaurant was busy or slow, or if other employees were not available, a manager might ask me to work less or more than scheduled. No one other than the managers at my restaurant scheduled me to work or directed me to work more or less than scheduled.

14. When I was a Crew Member, Kitchen Manager, and Service Manager, although the managers at my restaurant might have asked me to work more or less hours than scheduled, they never told me to work without clocking in or to clock out and continue to work. I have not seen any other employees being asked or instructed to work off the clock. Working off the clock would clearly violate Chipotle policy because employees must record all time worked and must be paid for all time worked.

15. There have been times that I have been called in to work on scheduled days off. From time to time, the manager needs additional crew to assist with restaurant operations. The reasons can vary greatly, but if I am ever called in to work on a day that I am not scheduled to be at the restaurant, I always clock in to the POS system and record all my time worked. I have never been asked to work “off-the-clock” on a scheduled day off or at any other time.

16. At times I have been scheduled to work the last shift of the day, which is sometimes called the “closing” shift. The employees on the closing shift are responsible for cleaning up the restaurant and getting it ready for business the next day. My restaurant closes to customers at 10:15 p.m. every night. The employees on the closing shift are scheduled until

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11:15 p.m. or 11:30 p.m. In some cases when employees stay past 11:30 p.m., in my experience, the closing shift usually completes its work before 12:30 a.m., although later closings sometimes happen.

17. Myself and other employees I have worked with were always clocked-in and paid for work we did closing the restaurant and preparing it for the next day. We were never asked to clock out and continue our work without pay.

18. I have never been asked to clock out and continue working or making preparations for any incoming shift. If food was not completely prepared or if we had additional cleaning to do to help prepare for the incoming shift, we remained on the clock beyond our scheduled shift to complete the tasks required of us.

19. Managers often have pre-shift and post-shift meetings with crewmembers. The reasons for these meetings vary. When I was a Crew Member, Kitchen Manager, and Service Manager, I was always allowed to clock-in before the meetings began and/or to remain clocked-in while they occurred.

20. While working at the Upper East Side location, I was never asked to clock out at a predetermined time, but instead, was told the managers I worked with, Delmis Perdomo, Joanny Alvarez, and Fatima Rodriguez, to only clock out when I completed my duties. I was never asked to work "off-the-clock," I never witnessed Delmis Perdomo, Joanny Alvarez, and Fatima Rodriguez give such a directive to any other employee, and I never learned from any other employee during the course of any discussions that they had been given such a directive. Although I worked late nights to 1:00 or 2:00 a.m., I was never working when the Aloha system reset at 3:00 a.m. If I would have been there at 3:00 a.m. when the system reset, I would have informed Delmis Perdomo, Joanny Alvarez, and Fatima Rodriguez of the actual hours I worked,



and they would have manually adjusted my time the following day so that I would have been paid for all hours worked. I never witnessed Delmis Perdomo, Joanny Alvarez, and Fatima Rodriguez give a contrary direction to any other employee, and I never learned from any other employee during the course of any discussions that they had been given such a directive.

**Chipotle's POS Reset**

21. I understand that Chipotle's POS system automatically resets at 3:00 a.m. every night at my location. The reset has never resulted in me not being paid for all time worked. I am not aware of the reset causing any other employees to not be paid for all hours worked.

22. If I was clocked in when the POS system reset at 3:00 a.m., the system generated a receipt, showing my total time worked. However, if I was still working, I was expected to clock back in immediately or ask my manager to clock me back in. I also had others correct any errors and obtain full compensation for time that the POS system did not record.

23. My managers have explained to me and the other employees that the POS system resets and that there are some very simple steps I need to take after the reset.

24. If I continue working after 3:00 a.m. I can make sure that I am paid for the time I work by letting one of my managers know. In this case, my manager will adjust the time record to reflect that I kept working after 3:00 a.m. This is a way to make sure I am fully paid. If the manager somehow forgets to correct the record during the shift, a manager on the first shift the next day is expected to correct the time record so that all time is paid.

25. I am not aware of any employee who has ever been disciplined, threatened, treated unfairly in any way or had his or her hours reduced for notifying his or her manager of the need for a correction to the POS record.

**Overtime Work and Pay at Chipotle**

26. When I was an hourly employee, I was usually scheduled to work less than 40 hours in a week and rarely work more than 40 hours in a week.

27. During my time with Chipotle as an hourly employee, I occasionally worked over 40 hours in a week. When that occurred, I was always paid overtime at time and one-half for hours over 40.

28. I am not aware of any employee or manager who has been disciplined for scheduling or working over 40 hours of work in a week.

29. When I was an hourly employee, I was never told that I was not permitted to work overtime hours; nor was I warned that I was approaching overtime and that I must clock out or face discipline or termination.

30. When I was an hourly employee, my work time in one week was never transferred or shifted to another week. I was always paid overtime for any time I worked over 40 hours in a week.

31. I understand that there is a proposed collective and class action lawsuit against Chipotle by a former employee alleging wage and hour violations, including allegations that he and others were forced to work “off-the-clock” and worked overtime that was not properly paid. I understand that the former employee wants to include me and other employees in the lawsuit and that this declaration may affect the lawsuit.

32. I have completed this declaration voluntarily, of my own free will, and am choosing to do so because it is true and correct. I have not been pressured, coerced, threatened or promised anything in connection with this declaration. I understand that I will not be retaliated against as a result of my choice to either sign or not sign this declaration. Chipotle informed me



that it is entirely my choice whether to sign this declaration and that my choice would not affect my job in any way.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this 19th day of July 2016, in New York, New York.

  
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**ARLENE BAEZ**